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MONTANA LEGISLATIVE HISTORY

Chapter 204 ~~19~~ 2001

Bill H _____ S 259 Original bill & history X C

H. Committee on AGRICULTURE			S. Committee on AG, LIVESTOCK & IRRIGATION		
Hearing Date(s)	3/8	X C	Hearing Date(s)	2/7	X C
EXEC ACTION	3/13	X C	EXEC ACTION	2/12	X C
		C			C
		C			C
Date Out		C			

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

Montana Legislative Branch

Montana Legislature

Detailed Bill Information

2001 **Session**

| Top | Actions | Sponsor, etc. | Subjects | Add'l Bill Info | Eff. Dates | New Search |

Bill Draft Number: LC0065 Current Bill Text

Bill Type - Number: SB 259

Short Title: Revise highway fencing requirements under certain circumstances - county park

Primary Sponsor: Jon Tester

Bill Actions - Current Bill Progress: Became Law

Bill Action Count: 45

Print Friendly

Action - Most Recent First	Date	Votes Yes	Votes No	Committee
Chapter Number Assigned	04/05/2001			
(S) Signed by Governor	04/05/2001			
(S) Transmitted to Governor	03/27/2001			
(H) Signed by Speaker	03/26/2001			
(S) Signed by President	03/24/2001			
(S) Returned from Enrolling	03/22/2001			
(C) Sent to Printing	03/22/2001			
(S) Sent to Enrolling	03/22/2001			
(H) Returned to Senate	03/21/2001			
(H) 3rd Reading Concurred	03/21/2001	100	0	
(H) Scheduled for 3rd Reading	03/21/2001			
(H) 2nd Reading Concurred	03/20/2001	100	0	
(H) Scheduled for 2nd Reading	03/20/2001			
(H) Scheduled for 2nd Reading	03/19/2001			
(H) Committee Report--Bill Concurred	03/14/2001			(H) Agriculture
(H) Committee Executive Action--Bill Concurred	03/14/2001	18	0	(H) Agriculture
(H) Hearing	03/08/2001			(H) Agriculture
(H) Hearing Canceled	03/02/2001			(H) Agriculture

(H) Referred to Committee	03/01/2001			(H) Agriculture
(H) First Reading	03/01/2001			
(S) Transmitted to House	02/16/2001			
(S) 3rd Reading Passed	02/16/2001	47	0	
(S) Scheduled for 3rd Reading	02/16/2001			
(S) 2nd Reading Passed on Voice Vote	02/15/2001	49	0	
(S) Scheduled for 2nd Reading	02/14/2001			
(C) Sent to Printing	02/13/2001			
(S) Committee Report--Bill Passed as Amended	02/13/2001			(S) Agriculture, Livestock and Irrigation
(S) Committee Executive Action--Bill Passed as Amended	02/13/2001	11	0	(S) Agriculture, Livestock and Irrigation
(S) Hearing	02/07/2001			(S) Agriculture, Livestock and Irrigation
(C) Introduced Bill Text Available Electronically	01/16/2001			
(S) Referred to Committee	01/16/2001			(S) Agriculture, Livestock and Irrigation
(S) First Reading	01/16/2001			
(S) Introduced	01/16/2001			
(C) Draft Delivered to Requester	01/15/2001			
(C) Draft Ready for Delivery	01/02/2001			
(C) Draft in Assembly/Executive Director Review	12/28/2000			
(C) Draft in Final Drafter Review	12/27/2000			
(C) Bill Draft Text Available Electronically	12/27/2000			
(C) Draft in Input/Proofing	12/27/2000			
(C) Draft to Drafter - Edit Review [SAB]	12/21/2000			
(C) Draft in Edit	12/21/2000			
(C) Draft in Legal Review	12/20/2000			
(C) Draft On Hold	12/04/2000			
(C) Draft to Requester for Review	10/26/2000			
(C) Draft Request Received	06/19/2000			

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Sponsor, etc.

Sponsor, etc.	Last Name/Organization	First Name	Mi
Requester	Tester	Jon	
Drafter	Kurtz	Leanne	
Primary Sponsor	Tester	Jon	

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Subjects

Description	Revenue/Approp.	Vote Majority Req.	Subject Code
Highways and Roads		Simple	HWY
Livestock (see also: Agriculture; Taxation--Agriculture/Livestock)		Simple	LVTK
Traffic Regulations (see also: Motor Vehicles)		Simple	TRAF

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Additional Bill Information

Probable Fiscal Note: No
Preintroduction Required: N
Session Law Ch. Number: 204
DEADLINE
Category: General Bills
Transmittal Date: 02/23/2001
Return (with 2nd house amendments) Date: 03/31/2001

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Section Effective Dates

Section(s)	Effective Date	Date Qualified
All Sections	01-OCT-01	

| Top | Actions | Sponsor, etc. | Subjects | Add'l Bill Info | Eff. Dates | New Search |

Senate BILL NO. 259

INTRODUCED BY Tester Jergeson McCann Merlin Wilkey
(Primary Sponsor)
John Musgrove

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING A SECONDARY ROAD THAT PASSES THROUGH OPEN RANGE IN A COUNTY PARK TO REMAIN UNFENCED PROVIDED THAT CERTAIN CRITERIA ARE MET TO MITIGATE SAFETY HAZARDS PRESENTED BY LIVESTOCK; AND AMENDING SECTIONS 60-7-102, 60-7-103, AND 60-7-202, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 60-7-102, MCA, is amended to read:

"60-7-102. Definitions. As used in 60-2-208 and 60-7-101 through 60-7-103, the following definitions apply:

(1) A "high-hazard area" is a segment of the primary or secondary highway system passing through open range where livestock ~~moves~~ move on or across the highway often enough, in enough numbers, and with enough ease of access that ~~such~~ the animals create a significant traffic safety hazard. Evidence bearing on whether animals on the highway pose a significant hazard includes, without limitation, past accident records, the opinions of persons qualified by experience to evaluate the relative safety of road conditions, and the terrain around the road.

(2) "Livestock" means cattle, sheep, swine, horses, mules, and goats.

(3) A "low-hazard area" is a segment of the primary or secondary highway system passing through open range ~~which~~ that is not a high-hazard area.

(4) "Open range" means those areas of the state where livestock ~~is~~ are raised and maintained in sufficient numbers ~~as~~ to constitute a significant part of the local or county economy and where ~~such animals~~ livestock graze and move about generally unrestrained by fences."

Section 2. Section 60-7-103, MCA, is amended to read:

"60-7-103. Department to fence right-of-way through open range -- exception. (1) ~~The~~ Except as provided in subsection (3), the department shall fence the right-of-way of any part of ~~the state highway system~~ a primary or secondary highway or a county road or bridge that is constructed or reconstructed

after July 1, 1969, through open range where livestock present a hazard to the safety of the motorist. ~~Where~~ When a fence is constructed, adequate stock gates or stock passes, as necessary, ~~shall~~ must be provided to make land on either side of the highway usable for livestock purposes.

(2) The department shall erect a right-of-way fence in ~~every~~ the high-hazard ~~area~~ areas where fencing is warranted as promptly as possible, and the cost of ~~such~~ the fence construction is an expenditure for the enforcement of federal-aid highway safety programs. ~~Gates~~ Even if a right-of-way fence is determined to be unwarranted pursuant to subsection (3), gates, stock underpasses, water facilities, and cattle guards may be installed where necessary to enhance safety and to make the land on either side of the highway usable for livestock purposes or where a public right-of-way intersects the state highway.

(3) The department is not required to fence the right-of-way of a secondary highway through open range that passes through a county park, provided that:

(a) the department and the board of county commissioners:

(i) agree that the criteria listed in this subsection (3) have been adequately met;

(ii) agree that fencing the portion of the highway under consideration is not warranted or advisable; and

(iii) cooperate in developing an accident mitigation plan for the portion of the highway that will remain unfenced. The plan may include the speed limit established as provided in 61-8-309 or 61-8-310, how the criteria listed in this subsection (3) have been met, how the plan will be implemented, and any other issues related to minimizing accidents involving livestock and motor vehicles where a fence has not been erected.

(b) livestock grazing does not occur from Memorial Day to Labor Day;

(c) the speed limit established as provided in 61-8-309 or 61-8-310 is clearly posted and enforceable;

(d) warning signs indicating that livestock may be on the road are posted at regular intervals along the road and maintained during the months that livestock grazing occurs;

(e) livestock management practices, such as locating water and administering dietary supplements away from the road and developing grazing and herding plans that minimize the amount of time that livestock are on or near the road, are employed;

(f) more than one-half of the forage that the livestock will consume is at least 50 yards away from the road;

(g) the road is not regularly used by commercial motor vehicles; and

(h) the unfenced portion of the road does not exceed 20 miles in length."

Section 3. Section 60-7-202, MCA, is amended to read:

"**60-7-202. Exclusions.** Section 60-7-201 does not apply to the following:

(1) livestock on state highways under the charge of one or more herders;

(2) the parts of fenced highways adjacent to open range where a highway device has not been installed to exclude range livestock;

(3) the parts of a state highway or a part of the federal-aid primary system ~~which~~ that the department of transportation designates as being impracticable to exclude livestock. These portions of the highway ~~shall~~ must be marked by proper signs in accordance with the department's manual and specifications for a uniform system of traffic-control devices.

(4) the parts of the secondary highway system that pass through county parks and that meet the criteria established in 60-7-103(3)."

- END -

MINUTES

MONTANA SENATE
57th LEGISLATURE - REGULAR SESSION
COMMITTEE ON AGRICULTURE, LIVESTOCK AND IRRIGATION

Call to Order: By **CHAIRMAN RIC HOLDEN**, on February 7, 2001 at 3:20 P.M., in Room 303, Capitol.

ROLL CALL

Members Present:

Sen. Ric Holden, Chairman (R)
Sen. Pete Ekegren, Vice Chairman (R)
Sen. Mike Halligan (D)
Sen. Greg Jergeson (D)
Sen. Walter McNutt (R)
Sen. Arnie Mohl (R)
Sen. Linda Nelson (D)
Sen. Gerald Pease (D)
Sen. Corey Stapleton (R)
Sen. Jon Tester (D)
Sen. Tom Zook (R)

Members Excused: None.

Members Absent: None.

Staff Present: Laramie Cumley, Committee Secretary
Doug Sternberg, Legislative Services

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 246, 1/31/01;
SB 259, 1/19/01
Executive Action: SB 245

The committee discussed and voted unanimously on a committee Senate Joint Resolution to be drafted. **EXHIBIT(ags31a01)**

HEARING ON HB 246

Sponsor: REP. KEITH BALES, HD 1, OTTER

SEN. PEASE referred to line 10 of the bill and asked whose duty it was to keep animals from going on highways. **REP. BALES** referred to the exceptions in the bill and explained that it would not be the duty of the landowner or livestock owner to keep livestock off of the road because, in that case, all of the roads in Montana would have to be fenced. He said again, the livestock owner has no duty and this allows the livestock owner to turn livestock out into pasture.

SEN. STAPLETON asked if the primary National Highway System and the Interstate in the same category. **REP. BALES** said yes.

SEN. HOLDEN clarified **SEN. STAPLETON'S** question.

SEN. STAPLETON explained a near death experience regarding the subject of a cow being on the road and getting in a wreck in which nothing was done because it was considered open range.

SEN. JON TESTER asked the opinion of **Mr. Bloomquist** regarding cattle or horses being on the highway seven times in three months and if that would be gross negligence. **John Bloomquist** claimed that if the livestock owner were told to keep livestock off of the roadways, the police had called to discuss the issue with the livestock owner and nothing had changed, yes, this would pushing gross negligence.

SEN. HOLDEN asked how gravel county roads with cattle guards would be affected in the bill. **REP. BALES** referred to the language of the bill that explains that it would not be the duty of the landowner or the livestock owner to keep animals off of the road. He said that this language protects the questioned rural areas where people know there are cattle in the road.

Closing by Sponsor:

REP. BALES closed HB 246 by commenting on a few remarks from Bill Garrison regarding the man who gave the Forest Service right of ways and the point that **Mark Diehl** made about being responsible for your children and livestock that have minds of their own. He also presented a letter of support from the **Billhart Ranch Co.** **EXHIBIT(ags31a10)**

HEARING ON SB 259

Sponsor: **SEN. JON TESTER, SD 45, BIG SANDY**

Proponents: **Blaine County Commissioners**

Pat Conway, Hill County
Louis Hagener, Hill County
Dave Galt, Director, Montana Department of Transportation
Kathy Bessette, Hill County Commissioner
Toni Hagener, Hill County
Robert Myers, Hill County
John Bloomquist, Montana Stockgrowers Association
Dean Hanson, Hill County
REP. JOHN MUSGROVE, Representing himself
REP. MERLIN WOLERY, Representing himself

Opponents: **none**

Opening Statement by Sponsor:

SEN. JON TESTER, SD 45, BIG SANDY, opened SB 259 by explaining the State Park in Havre for which this bill was drafted. The park is 17 miles long and one mile wide. He stated that the park offers many recreational activities for the public. **SEN. TESTER** provided **SB025901.ads** amendment. **EXHIBIT(ags31a11)** He stated that this is the largest park in the United States. The federal government has mandated fences to be built in new construction projects. The bill exempts the park from such mandates because if the park were fenced, the usability of the park would be cut back drastically.

Proponents' Testimony:

Pat Conway presented written testimony. **EXHIBIT(ags31a12)**

Louis Hagener presented written testimony. **EXHIBIT(ags31a13)**

Dave Galt stood in support of the bill.

Kathy Bessette presented written testimony. **EXHIBIT(ags31a14)**

Toni Hagener presented written testimony. **EXHIBIT(ags31a15)**

Robert Myers presented written testimony. **EXHIBIT(ags31a16)**

John Bloomquist stated the Stockgrowers support the bill.

Dean Hanson explained the park is a key fishing area. People come from all over Montana and he has been on an advisory board for the park for 42 years.

REP. JOHN MUSGROVE asked for the committee to look favorable upon this bill.

REP. MERLIN WOLERY spoke on behalf of the bill and commented on all of the hard work and compromise put into the bill.

SEN. HOLDEN presented a letter of support for the bill from **Blaine County Commissioners. EXHIBIT(ags31a17)**

Opponents' Testimony: none

Questions from Committee Members and Responses:

SEN. PETE EKEGREN clarified the location of the park and asked if it was open range or leased land. **SEN. TESTER** stated that the park is located at the edge of the Bears Paw Mountains and that the land is open range which is leased.

SEN. EKEGREN clarified the lease agreement for the ranchers who run cattle on the park. **Pat Conway** stated that there is no formal lease and that ranchers pay by the head for cattle monthly and all of the cattle intermingle in the park.

SEN. EKEGREN asked why the fencing issue is so important and questioned controlled access to the park. **Pat Conway** stated that there are controlled access areas although people who fish at the park may park and walk into the park from the road.

SEN. HOLDEN clarified access to water for cattle was also an issue and also questioned the county's concern for the highways liability. **SEN. HOLDEN** also clarified that cattle do not graze in the park during the summer months.

SEN. WALTER MCNUTT asked if the bill would conflict with the previous bill. **John Bloomquist** stated that he looked closely at the bills similarities and answered no, he did not think it would conflict with the previous bill.

SEN. HOLDEN asked what the speed limit was on the discussed road. **Dave Galt** answered that he did not know what the current speed limit is and that in the new construction process, the speed limit issue will be negotiated with the county and the highway commission.

Closing by Sponsor:

SEN. TESTER closed by again explaining the shape of the park and commented on the support of the community on this issue.

SENATE AGRICULTURE
EXHIBIT NO. 11
DATE 2-7-01
SB 259

Amendments to Senate Bill No. 259
1st Reading Copy

Requested by Senator Jon Tester

For the Senate Agriculture, Livestock and Irrigation Committee

Prepared by Doug Sternberg
February 12, 2001 (8:10AM)

1. Page 2, line 13.
Following: "met;"
Insert: "and"

2. Page 2, line 14 through line 15.
Strike: subsection (ii) in its entirety
Renumber: subsequent subsection

3. Page 2, line 28.
Following: "employed;"
Insert: "and"

4. Page 2, line 29 through page 3, line 1.
Strike: subsections (f) through (g) in their entirety
Renumber: subsequent subsection

- END -

Rm 422 3:00 p.m

AGRICULTURE
EXHIBIT NO. 12
DATE 2-7-01
BILL NO. SB 259

Senate Bill 259

Good ~~morning~~ afternoon Chairman Holden and members of the committee:

I am Pat Conway, Chairman of the Hill County Commission.

Our contingent from Hill County will present five areas for our testimony. They include an overview of the process we conducted to study the fencing issue, safety, economic and stockmen concerns and a short history of Beaver Creek Park.

For the overview:

Briefly, the reason for the bill:

Beaver Creek Park is a County-owned park with a State Secondary road running through it. Stockmen of the area run their cattle on the park from September through December. The road is slated for reconstruction. Why are we here?

In 1969 a bill was passed (Section 60-7-103, MCA), that requires a fence be built if it is determined that a hazard exists due to (in this case), cattle grazing near the road that could cause an accident with a vehicle. A study by the MDT declared such a hazard did exist because of a few accidents. This area was designated as "Open Range".

We became aware of the law several years ago and when the news reached the public a huge outcry against the fence emerged. There were anti-fence groups meeting and petitions running wild.

This prompted the Hill County Commission to organize a citizen's advisory group. The main objective was to study all facets of the issue and to come forth with a recommendation to the Commission. The committee was a cross section of our citizens, officials of the MDT, County government and Dan Norderud of Peccia Associates who is doing the environmental assessment. We had four meetings over a period of four months.

There are several objections to a fence. 1) Fence would restrict movement of people who were out for fishing, hiking, etc., 2) Fence would detract from the pristine aesthetics of the park 3) A concern over the maintenance of the fence, 4) Fence would take about 500 acres of the best grazing out of use – also – no grazing of this area would result in the build-up of fuels creating a fire danger.

Not only has this been a hot topic in Hill County, but extensively discussed within the MDT in Helena and Great Falls. MDT officials are fully aware of the controversy and opinions of Hill County residents.

The committee considered seven or eight different options in relation to the fencing issue. They ranged from where the fence would be placed to one suggestion of letting the road return to gravel.

However, the No. 1 recommendation was to seek legislation that would allow exclusion from the rigid requirement of fencing and allow for other means of dealing with safety issues in County Parks. I urge you to give every consideration of our request.

EXHIBIT NO. 13
DATE 29-01
BILL NO. HB 246

SB 259 Introduced by J Tester *Testimony of Louis Hagener*

Mr. Chairman, members of the committee,

My Name is Louis Hagener; I am a resident of Havre Montana, my profession is range management and land use planning. I participated as a citizen member on the committee that has been referred to by Commissioner Conway as well as consulted with other parties.

Current law requiring fencing along roads is useful means of dealing with safety issues between livestock and motorists in a vast majority of instances, but there are circumstances when construction of fences along roads may not necessarily be the best alternative. County parks are one of these instances when the criteria included in this bill are met. These criteria are

-livestock use and peak recreation periods do not overlap,
-speed limits are clearly posted and enforceable,
-warning signs are installed,
-management practices are employed to curtail livestock being on the road,
-road would not exceed 20 miles.

Accidents on roads are a function of numerous circumstances, only one of which may be livestock. By example: The accidents in Hill County Park are a concern. In reviewing these accident statistics, one can see that 44% are alcohol related, 52% involve young drivers and there is a high level of single vehicle accidents.
Twenty-six (26%) percent of the accidents have involved livestock. This amounts to 15 of 66 accidents over a 10-year period on the segment of the road that is within the Park. (On this same road outside of the park, where the road is fenced on both sides, there have been additional collisions with livestock.) In a good deal of the collisions involving livestock, alcohol and reckless driving were also factors and therefore were not the sole "fault" of livestock.

Hill County is concerned about safety on the roads in the county and is a reason it is important to correct design problems in roads and implement other measures to improve safety. We are concerned that when motorists have a false expectation that all livestock and wildlife are fenced away from the road they will not drive in as prudent a manner and will actually be at **higher risk**. Fences are not 100% effective in keeping livestock off roads. A recent newspaper article reported that 200 livestock / vehicle collisions occur per year, and a good deal of these are along roads that are already fenced in accordance with existing law. By specific example; MDT reports that highway 93 south from Missoula to the Idaho border through the Bitterroot valley, had 17 collision with livestock accidents in a 2 year period and 292 confirmed collisions with wildlife in the same period. Highway 93 is through a populated area, is fenced along nearly its entire length, is not in a major livestock grazing area and yet livestock collisions still occur.

We can mitigate safety issues, by implementing actions specifically directed at the causes of accidents. These include implementing a curfew as would be allowed by HB27 introduced by Representative John Musgrove. Representative Musgrove's bill will give the counties a tool and the authority to curtail young drivers and crack down on DUI.

Revised grazing practices, installing water in strategic locations to reduce the need for livestock to be on or crossing the road and posting of specific seasonal warnings are only a few to be implemented. *This past summer, I took this problem to three drivers education classes (63 students) at Havre High School to specifically ask them what could be done to make this road safer for the young people that are involved in 52% of the accidents on the road through the park. Only 24% of these students suggested fencing as a reasonable alternative, but many of these were not traditional fences. 16% of the students specifically mentioned that fencing would not make the road safer. 56% supported more rigorous enforcement of laws designed to protect the public. 40% mentioned controlling the speed of traffic on the road.*

Excessive speed or driving faster than conditions warrant *(darkness, slick roads, curves, etc)* is a factor in many accidents. Though posted speed limits do not necessarily slow traffic, having the motorist aware that there will be wildlife on the road year around, people walking, skiing, bicycling, hiking on and around roads in parks during the recreation season and livestock in a specific season will cause drivers to be more cautious. *I feel sure that most people in this room have driven enough roads in Montana to know to slow down on some segments of road because of hazards we know or suspect are there.* A fence will do **nothing** to curtail accidents during the non- grazing season and may in fact make the situation **less safe** for people and motorists. During relatively short periods when a fence would be used to control livestock, it is not going to be 100% effective even with the most conscientious care. *(In the case of Hill County Park the non-grazing season is 8-9 months and the grazing season is 3-4 months.)*

The legislation asked for does not overturn or weaken any existing laws. What it does do is allow counties and MDT to specifically implement measures to protect the public while allowing the county to continue to manage their own land and maintain the integrity of parks. It requires counties and MDT to look seriously at all causes of unsafe roads in county parks and not just install a fence and turn away, believing that all that needs to be done has been done because the letter of existing law has been met.

Please vote yes for Senate Bill 259 Thank you

SENATE AGRICULTURE
EXHIBIT NO. 4
DATE 2-7-01
SB 259

Senator Holden and members of the Senate Agriculture Committee.

I am ~~Kathy Bessette,~~ Hill County Commissioner.

Hill County has achieved a balance among the variety of park users in the operation of Beaver Creek Park. In so doing, the Hill County Park Board and the Hill County Commissioners strive for fiscal responsibility with the ultimate goal being a self-sufficient operation of the Park. In fiscal year 2000/01, Hill County levied ¼ of a mill or $7230.00 for park activities. The remaining funding is derived from a variety of users, including:

Grazing fees for 2200 cattle:	$38,000	
Sale of hay:	$3,000	
Cabin site rentals:	$16,000	
Beaver Lodge rental:	$8,000	
Camping site rentals:	$2,500	Total: $67,500

It is interesting to note that over 50% of the park's revenue source is derived from grazing fees - $38,000.

Within the 10,000 acre park, which is the largest county owned park in the United States, are 124 cabin sites, over 100 picnic/campsites (many of these were developed by local service clubs, including Elks, Lions, and Rotary), Beaver Creek Lodge, Camp Kiwanis which hosts several youth camps throughout the summer, plus 2 fishing lakes. These sites are all designed and regulated by the park board to allow the pristine beauty of the park to remain intact yet outdoor enthusiasts can recreated to their hearts content! And they do - hiking, snow-mobiling, cross country skiing, trail riding, picking berries, picnicking, swimming, camping and fishing in what has become known as the Premier Prairie Fishery.

Hill County has proved we have the ability to manage our own property in a prudent and fiscally responsible manner. The proposed fence would inhibit this ability. Reductions in revenue of any amount will increase the burden on the local citizen. The proposed fence could take away some of the best grazing in the park, forcing ranchers to reduce the size of their herds as much as 1/3. Bear Paw Development Corporation estimates the dollar turns over 2½ to 5 times so this could amount to a huge impact on the local economy every year. Add to that the loss in revenue to the park budget and there would be an additional tax burden.

Another area of concern is the imminent danger of wildfire if the entire park isn't grazed. The cattle mitigate fire danger - they eat the excessive fuel for fires. In order to keep the fire danger down, the park would need additional employees and equipment. It is an effort in futility for park personnel to try to mow areas accessible to cattle only but those are the areas most susceptible to fire. Bear Paw Volunteer Fire Department serves the area and houses fire fighting equipment and headquarters at Camp Kiwanis.

SENATE AGRICULTURE
EXHIBIT NO. 15
DATE 2-7-01
BILL NO. SB 259

Mr Chairman, members of the Committee:

I am Toni Hagener from Havre/Hill county. I am a former Representative HD 90, a former Hill County Commissioner and a past and present user of the park in question. You have heard the concerns regarding the required fencing and also the results of serious study of that requirement and suggested mitigation efforts.

Though there are other smaller parks involved with somewhat different problems, I would like to give a little of the "rest of the story" regarding BC Park as it is unique in a number of ways: It consists of over 10,000 acres - one mile wide and 17 miles long. It exhibits a variety of ecological terrain moving from typical prairie vegetation in the North end and to alpine vegetation in the south end. It is of geological as well as historical interest. It was originally a part of the huge Fort Assinniboine military reserve and was then called a" playground" where soldiers went for R &R and where they planted fish in the creek before the turn of the century.

By an act of Congress in 1913, after the Fort was abandoned, the now defined "playground area" was put under the supervision of the City of Havre but that entity was unable to manage it. In the 1930's The CCC made assorted improvements. In 1947 a County referendum allowed the purchase of most of the area. An advisory Board was promptly appointed. In 1965 a park superintendent was hired to live on and provide plans for management and development to meet the demands of the public and still protect the quality of life in the Park. In 1967 HB 285 established the county parks law. Improvements have been continuous since that time as money has been available.

A creek runs through this park. Wildlife runs through it year 'round. The creek provides stream fishing, fills two reservoirs and one small fishing pond. A road also runs through it which provides access to several ranches, one access to the Rocky Boy reservation, a skii area (when there is snow) and other points south. It is not a major collector, a haul road or a speedway. I DOES have extensive recreational use in the summer months but decreases appreciably by September.

Over the years, thousands of kids from various church, youth and other organizations have enjoyed the youth camp facilities in the park. Thousands of people of all ages have enjoyed the scenery, the wildlife, the camping, the hiking, the wildlife and overall atmosphere of this Park. I ask the Committee members to try to imagine your visit to Glacier, Yellowstone or any other favorite park area, with a fence on both sides of the road with access to recreational area through gates and cattle guards. I think you will then understand why we ask an exception in the case of Parks according to provisions in this bill.

SENATE AGRICULTURE
EXHIBIT NO. 16
DATE 2-7-01
BILL NO. SB 259

Mr. Chairman, members of the committee,

My name is Rob Myers. As a South Havre rancher and a member to the Highway 234 advisory committee, I am here today to voice my concerns and those of fellow ranchers that use Beaver Creek Park. I don't consider myself to be much of a speaker---especially in front of a group. But I feel so strongly about this issue that I believe I should do whatever I can to help. I don't think non-ranchers realize how important the park is to our livelihood. Speaking for myself, if I was unable to use the park for grazing, I would have to decrease my herd number 30- 40% or start feeding those animals 30 – 45 days earlier than I now do. That would drastically increase my hay cost –one that I could not afford. I know my neighbors have been making the same calculations --- sell or buy hay. All of this means less money filtering back to the community businesses and less money going to the county for taxes as well as less grazing fee going for park maintenance. A lose lose situation.

The more I thought about this topic, the more I realized it was not just a money issue. With a fence in place, access to the creek would be limited and many water sources would have to be developed. ---an added expense. Areas of prime grazing would become harder to get to for some ranchers and overused by others. Access to grazing areas, campgrounds etc. would all be through gates --- I understand somewhere around 48 of them. From my experience during hunting season on my property, I would almost bet all those gates are not going to remain closed. Are drivers on the park going to be expecting cattle on the highway as they are now? My wife travels that road daily to work and in a few years my sons will be driving. I want that road to be as safe as possible---I want the drivers to expect the unexpected.

Another issue of importance, after the fires we have had in Montana this year, I think most of us can relate to fire danger. I understand there will be at least 30 feet of ungrazed grass and brush on either side of the road if the fence were in place. Prime fuel for an accidental fire.

So many other angles to this topic have been discussed amongst the community. There **has** to be a workable solution. I feel Senate Bill 259 **is** the solution----for the recreationalists, berry pickers, fisherman, motorists as well as the ranchers.
Please vote **yes** for Senate Bill 259.

BLAINE COUNTY COMMISSIONERS

Victor J. Miller, Chr.
Don K. Swenson
Arthur Kleinjan

P.O. Box 278
(406)357-3250

Chinook, Montana
59523

EXHIBIT 17
DATE 2-7-01
BILL NO. SB 259

January 30, 2001

Honorable Senator Ric Holden
Chairman, Agriculture, Livestock and Irrigation
Standing Committee
Montana Senate, Room 422
Helena, MT 59620

Re: Support of SB 259

Dear Senator Holden,

We are in support of SB 259 that allows for a secondary road to go through open range in a county park. This directly influences our neighboring county, Hill County, in their endeavor of getting necessary improvements made upon the secondary road that goes through Beaver Creek Park, the nation's largest county owned park. The improvements would increase public safety.

SB 259 would allow these improvements to move forward and, at the same time, allow Hill County to maintain open range status. This open range status allows for grazing revenue to continue in an effort to keep operational costs to the county lower. Further, the aesthetic of western lifestyles is maintained through allowing reasonable open grazing. Additionally, the cost of fencing is an added cost of operation and is unsightly in the overall image of the park.

We arguably work with the Hill County Commissioners more than any other commission. We know their hearts and minds are in the right place in dealing with this issue. We stand in support of this bill and our fellow commissioners because we know this a well thought out solution to a local issue. This is a local issue, however, that needs the influence of state government.

We respectfully ask for your committee's support of SB 259. Thank you for your time and consideration.

Sincerely,

Victor J. Miller

Don K. Swenson

Arthur Kleinjan

Attest:
Sandra L. Boardman
Sandra L. Boardman

SENATE STANDING COMMITTEE REPORT

February 13, 2001

Mr. President:

We, your committee on **Agriculture, Livestock and Irrigation** report that **Senate Bill 259** (first reading copy - white) **do pass as amended.**

Signed: Ric Holden
Senator Ric Holden, Chair

And, that such amendments read:

1. Page 2, line 13.
Following: "met;"
Insert: "and"

2. Page 2, line 14 through line 15.
Strike: subsection (ii) in its entirety
Renumber: subsequent subsection

3. Page 2, line 28.
Following: "employed;"
Insert: "and"

4. Page 2, line 29 through page 3, line 1.
Strike: subsections (f) through (g) in their entirety
Renumber: subsequent subsection

- END -

Committee Vote:
Yes 11, No 0.

360815SC.sjo

DATE 2-7-01

SENATE COMMITTEE ON Ag

BILLS BEING HEARD TODAY: HB246, SB259

PLEASE PRINT

NAME	PHONE	REPRESENTING	BILL #	SUPPORT	OPPOSE
Mike Sjostrom	442-3740	Mont. Livestock Ag Credit, Inc	246	X	
Kathy Bessette	398538[illegible]	Hill County	SB259	X	
" "	398-5381	Hill County	HB246	X	
Bob BRASTRUP	266-3872	myself	SB259	X	
" "	"	"	HB246	X	
MARK Peterson	394-2216	myself	HB246	X	
"	"	"	SB259	X	
Doug Kaercher	265-1009	Hill County	SB259		
"	"	Hill Co	HB246		
A.R. (Tom) Hagener	265-5205	Home/Hill County	SB259	X	
John L. Musgrove	265-1787	HD 91	HB259	X	
Gloydena Garrison	825-2501	self	HB246	X	
Christi Pilcher	443-2642	self	HB246	X	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE 2-7-01

SENATE COMMITTEE ON Agriculture

BILLS BEING HEARD TODAY: HB 246, SB 259

PLEASE PRINT

NAME	PHONE	REPRESENTING	BILL #	SUPPORT	OPPOSE
CAROL MOSHER	406 562-3315	Mt. Cattle Women	HB246	X	
NANCY BURNHAM	442-4702	MT Cattlewomen	HB246	X	
TINA FREEMAN	406-562-3567	MT Cattlewomen	HB246	X	
Ben. Allen	406-562-3395	Self	HB 246	X	
Pat Conway	406 265-5481	Hill County	HB 246	X	
"	"	"	SB 259	X	
Gov Hagener	406-265-5205	Hill Co	SB 259	X	
ROB MILLS	406 395-4514	Hill Co	SB 259	X	
"	"	"	HB 246	X	
Dean Houston	406 371-3727	Hill Co	SB 259	X	
Bill Darrin	406 875-2501	MSGA	HB 246	X	
Karla Johnson	406-442-3420	Self	HB 246	X	
Bill Henry	266-3684	MSGA	HB246	X	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE 2-7-01

SENATE COMMITTEE ON Ag

BILLS BEING HEARD TODAY: HB246, SB259

PLEASE PRINT

NAME	PHONE	REPRESENTING	BILL #	SUPPORT	OPPOSE
MIKE MURPHY	235-4555	MWRA	HB 246	✓	
Greg Van Horssen	2-0230	State Farm Ins. Co.	HB 246	✓	
Rep Merlin Walery			HB259		
Rep Merlin Walery			HB246		
CAROL LAMBERT	427-5301	Women Formulating Rural Economics WIFE	HB 246	✓	
Riley Johnson	442-3747	NFIB	HB 246	X	
DAVE GALT	444-6201	MDT	SB 259	✓	
Al Smith	443-3814	MTHA	HB246	✓	✓
John Bloomquist		Mt. Stockgrowers	HB246 SB259	X	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE 2-7-01

SENATE COMMITTEE ON Ag

BILLS BEING HEARD TODAY: HB246 ; SB259

PLEASE PRINT

NAME	PHONE	REPRESENTING	BILL #	SUPPORT	OPPOSE
[illegible]	353-2605	[illegible]	HB246		
Nancy Schlepp	442-7476	MT Farm Bureau	HB246	✓	
Roy Andes	442-5581	Self	HB246	✓	
Buzz Doney	383-4306	SELF	HB246		✓
Darwin Doney	383-4306	Self	HB246		✓
MARK DIEHL	227-6696	SELF	HB246	✓	
Dave Schwinden	442-9541	MT Farmers Union	HB259 HB246	✓ ✓	
Cliff Cox	227-6697	Farm Bureau	HB246	✓	
John Semple	443-7487	MT CATTLEWOMEN	HB246	✓	
Gloria Paledichuk		Richland Econ Development			
Bob Bergren	449-2823	Helena	246	✓	
JOHN J. LYNDES	368-2222	CANYON CREEK SELF	246		✓
JEFF T. LYNDES	458-6273	HELENA SELF	246		✓

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

MINUTES

MONTANA SENATE
57th LEGISLATURE - REGULAR SESSION
COMMITTEE ON AGRICULTURE, LIVESTOCK AND IRRIGATION

Call to Order: By **CHAIRMAN RIC HOLDEN**, on February 12, 2001 at 3:15 P.M., in Room 422 Capitol.

ROLL CALL

Members Present:

Sen. Ric Holden, Chairman (R)
Sen. Pete Ekegren, Vice Chairman (R)
Sen. Mike Halligan (D)
Sen. Greg Jergeson (D)
Sen. Walter McNutt (R)
Sen. Arnie Mohl (R)
Sen. Linda Nelson (D)
Sen. Gerald Pease (D)
Sen. Corey Stapleton (R)
Sen. Jon Tester (D)
Sen. Tom Zook (R)

Members Excused: None.

Members Absent: None.

Staff Present: Laramie Cumley, Committee Secretary
Doug Sternberg, Legislative Services

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 326, SB 345 1/29/01 1/30/01
Executive Action: SB 259, SB 326, SB 345

HEARING ON SB 326

Sponsor: SEN. MIKE TAYLOR, SD 37, Proctor

Proponents: Ralph Peck, Director, Montana Department of Agriculture
REP. JOHN ESP, HD 25, Big Timber
John Moodry, Butte Silverbow Weed Supervisor

SEN. COBB said this is just a simple way for water users to share water. The district courts appoint the water commissioner, and are usually involved in water right fights and the judge is familiar with water right laws. If water is sold or leased it is the same issue as sharing water.

{Tape : 3; Side : B ; Approx. Time Counter : 4.2 }

EXECUTIVE ACTION ON SB 259

Motion: SEN. TESTER moved that **SB 259 DO PASS.**

Discussion:

Doug Sternberg discussed amendment **SB025901.ads.**
EXHIBIT(ags35a15)

Motion/Vote: SEN. TESTER moved that **AMENDMENT SB025901.ADDS BE ADOPTED. Motion carried unanimously.**

Motion/Vote: SEN. TESTER moved that **SB 259 DO PASS AS AMENDED. Motion carried unanimously.**

EXECUTIVE ACTION ON SB 326

SEN. HOLDEN said a lot of work has gone into this bill and he wondered what kind of support there was from the committee.

SEN. HALLIGAN said for years they have tried to raise the oil and gas tax and it has failed. He said the funding for this bill needs to go to some type of referendum whether it is raising the gas tax or raising the motor vehicle fee to $3.00.

SEN. NELSON said she likes the bill but does not like the funding.

SEN. ZOOK said this bill is important, but it has quite an economic shift on the state. He said he feels that a lot of weed problems come from hunters and perhaps something could be done with the Fish and Game. He stated they have lowered the license fees on a lot of vehicles and these vehicles spread weeds and perhaps they need to raise the weed fees.

SEN. JERGESON stated weeds that are found in weed infested hay had to start with the machinery that cut it down, etc. He stated

MONTANA SENATE
2001 LEGISLATURE
AGRICULTURE COMMITTEE
ROLL CALL

DATE 2-12-01

NAME	PRESENT	ABSENT	EXCUSED
SEN. RIC HOLDEN, CHAIRMAN	✓		
SEN. PETE EKEGREN, VICE CHAIRMAN	✓		
SEN. MIKE HALLIGAN	✓		
SEN. GREG JERGESON	✓		
SEN. WALT MC NUTT	✓		
SEN. ARNIE MOHL	✓		
SEN. LINDA NELSON	✓		
SEN. GERALD PEASE	✓		
SEN. COREY STAPLETON	✓		
SEN. JON TESTER	✓		
SEN. TOM ZOOK	✓		

SENATE AGRICULTURE
EXHIBIT NO. 15
DATE 2-12-01
BILL NO. SB 259

Amendments to Senate Bill No. 259
1st Reading Copy

Requested by Senator Jon Tester

For the Senate Agriculture, Livestock and Irrigation Committee

Prepared by Doug Sternberg
February 12, 2001 (8:10AM)

1. Page 2, line 13.
Following: "met;"
Insert: "and"

2. Page 2, line 14 through line 15.
Strike: subsection (ii) in its entirety
Renumber: subsequent subsection

3. Page 2, line 28.
Following: "employed;"
Insert: "and"

4. Page 2, line 29 through page 3, line 1.
Strike: subsections (f) through (g) in their entirety
Renumber: subsequent subsection

- END -

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
57th LEGISLATURE - REGULAR SESSION
COMMITTEE ON AGRICULTURE

Call to Order: By **CHAIRMAN DONALD L. HEDGES**, on March 8, 2001 at 3:12 P.M., in Room 172 Capitol.

ROLL CALL

Members Present:

Rep. Donald L. Hedges, Chairman (R)
Rep. Linda Holden, Vice Chairman (R)
Rep. Ralph Lenhart, Vice Chairman (D)
Rep. Darrel Adams (R)
Rep. Norma Bixby (D)
Rep. Rick Dale (R)
Rep. Dave Gallik (D)
Rep. Kathleen Galvin-Halcro (D)
Rep. Christopher Harris (D)
Rep. Verdell Jackson (R)
Rep. Jim Keane (D)
Rep. Larry Lehman (R)
Rep. Holly Raser (D)
Rep. Clarice Schrumpf (R)
Rep. Frank Smith (D)
Rep. Butch Waddill (R)
Rep. Karl Waitschies (R)
Rep. Merlin Wolery (R)

Members Excused: Rep. Gilda Clancy (R)

Members Absent: None.

Staff Present: Krista Lee Evans, Legislative Branch
Robyn Lund, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 81, 3/10/2001; SB 197, 3/10/2001; SB 245, 3/10/2001; SB 259, 3/10/2001

$20,000, the next year they pull $10,000 out, they would then pay taxes on the money they took out and the interest. **Mr. Turner** said that was correct. **REP. JACKSON** continued, next year they have a good year, can they put $10,000 in the fund? **Mr. Turner** said that they could. **REP. JACKSON** asked, at the end of five years, do they have $10,000 that can stay two years longer. **Mr. Turner** said that was correct. The time period follows the deposit itself.

REPRESENTATIVE KARL WAITSCHIES asked if this was worthwhile on only a state level. **Senator Holden** said to look at your tax return form. You are going to take money off and set it aside, that money is not going to be taxed. There is a definite advantage. **REP. WAITSCHIES** stated that setting aside a loss isn't going to do any good. **Senator Holden** said that was right. There are some years when this bill is not going to be effective, but he is more optimistic than that. He is hoping that next year we will have a good year and then have an opportunity to set that money aside.

REPRESENTATIVE JIM KEANE asked if this bill would be like unemployment insurance for farmers. **Mr. Turner** said this bill allows a tax deduction on the state level of up to 20% of their income. Unemployment compensation is also a deduction at the state level.

Closing by Sponsor:

Senator Holden said that agriculture represents the largest part of Montana's domestic product. These farms support entire families and several generations of these families. This is a group of people that are subject to volatile markets and huge losses due to weather. This bill looks toward the future.

Rep. Devlin will carry this bill.

HEARING ON HB 259

Sponsor: Senator John Tester, SD 45

Proponents: Doug Kaercher, Hill County Commissioner
Louis Hagener
Jim Currie, Montana Department of Transportation
Representative John Musgrove, HD 91
Senator Greg Jergeson, SD 46
John Bloomquist, Montana Stock Growers Association
REPRESENTATIVE MERLIN WOLERY, HD 90

Opponents: None

Opening Statement by Sponsor:

Senator John Tester, SD 45, said that this bill allows for a mitigation plan with the lack of fencing in a high hazard area. In Hill County there is the largest county park in the United States; it is about 20 miles long. The Department of Transportation is due to rebuild the road that runs through that park. When the department rebuilds a road in a high hazard area they are required to fence it. This bill offers a mitigation plan, which the Department of Transportation has agreed to, to get an exemption on that fence. **EXHIBIT(agh53a12)**

Proponents' Testimony:

{Tape : 1; Side : B; Approx. Time Counter : 40.9}

Doug Kaercher, Hill County Commissioner, submitted written testimony. **EXHIBIT(agh53a13) EXHIBIT(agh53a14)**

Louis Hagener submitted written testimony. **EXHIBIT(agh53a15)**

Jim Currie, Montana Department of Transportation, stated that this bill represents an example of where local government and citizens have worked together to find solution. A fence would ruin this park.

Representative John Musgrove, HD 91, said that this would make a great park even better.

Senator Greg Jergeson, SD 46, said that this is a team effort on the part of the entire delegation.

John Bloomquist, Montana Stock Growers Association, stands in support of this bill.

REPRESENTATIVE MERLIN WOLERY, HD 90, also supports this bill.

Questions from Committee Members and Responses:

REPRESENTATIVE KARL WAITSCHIES said that he was under the impression that only interstate and primary roads had to be fenced. **Krista Lee Evans** replied that is true, however, in 67-103, whenever they reconstruct or rebuild a road they are required to fence those rights of way as well. **Senator Tester** commented that he thought it was specific to high hazard areas on secondary roads.

REPRESENTATIVE FRANK SMITH asked if this would have any influence on the funding. **Mr. Galt** replied that it will allow them to put some funding someplace else.

REPRESENTATIVE VERDELL JACKSON asked, on page 3, line 2, where did the 20 miles in length come from? **Senator Tester** said that this bill is fairly specific to this park and this park is 18 miles long.

REPRESENTATIVE DARREL ADAMS asked for reasons that there not be a fence. **Senator Tester** said that it deals with the multiple use aspect of the park and the fact that there are many campgrounds, fishing, hiking and more. The fence would be cumbersome.

REPRESENTATIVE DON HEDGES asked how we handle fencing requirements in other state parks. **Mr. Currie** replied that, unless it was deemed a nonhazardous area, under this law they would have to fence it if they reconstructed a right of way.

Closing by Sponsor:

{Tape : 1; Side : B; Approx. Time Counter : 55.6}

Senator Tester said that this bill came out of a grassroots effort. This has really come from the people.

REP. WOLERY will carry this bill.

The following exhibit is in a pamphlet, or newspaper form which can not be scanned intact.

EXHIBIT: Exhibit: 12
3.8.01
SB : 259

The complete exhibit is located with the minutes at the Montana Historical Society Archives
225 N. Roberts
Helena, MT 59620-1201
(406) 444-4775

EXHIBIT 13
DATE 3/8/01
SB 259

To: Chairman Hedges and Committee Members
House Agriculture Committee

Fr: Hill County Commissioners

Re: An overview of Hill County Commissioners proceedings relating to the Beaver Creek Park fencing issue and to Senate Bill 259.

Beaver Creek Park is a County-owned park with a State Secondary road running through it. Stockmen of the area run their cattle on the park from September through December. The road is slated for reconstruction.

In 1969 a bill was passed (Section 60-7-103, MCA), that requires a fence be built if it is determined that a hazard exists due to (in this case), cattle grazing near the road that could cause an accident with a vehicle. A study by the MDT declared such a hazard did exist because of a few accidents. This area was designated as "Open Range".

We became aware of the law several years ago and when the news reached the public a huge outcry against the fence emerged. There were anti-fence meetings and petitions running wild.

This prompted the Hill County Commission to organize a citizen's advisory group. The main objective was to study all facets of the issue and to come forth with a recommendation to the Commission. The committee was a cross section of our citizens, officials of the MDT, County government and Dan Norderud of Peccia Associates who is doing the environmental assessment. We had four meetings over a period of four months.

There are several objections to a fence. 1) Fence would restrict movement of people who were out for fishing, hiking, etc., 2) Fence would detract from the pristine aesthetics of the park 3) A concern over the maintenance of the fence, 4) Fence would take about 500 acres of the best grazing out of use – also – no grazing of this area would result in the build-up of fuels creating a fire danger. The loss of these acres would limit the number of cows resulting in reduced income for the County and possibly a reduction in the ranchers quota

of cows placed on the Park. Thus, a loss of income for the County and ranchers. Our agriculture economy is already stressful.

Not only has this been a hot topic in Hill County, but extensively discussed within the MDT in Helena and Great Falls. MDT officials are fully aware of the controversy and opinions of Hill County residents. Dave Galt of the Montana Department of Transportation supports this bill. Also the Stockgrower's Attorney, John Bloomquist, spoke as a proponent of the bill.

The committee considered seven or eight different options in relation to the fencing issue. They ranged from where the fence would be placed to one suggestion of letting the road return to gravel.

However, the No. 1 recommendation was to seek legislation that would allow exclusion from the rigid requirement of fencing and allow for other means of dealing with safety issues in County Parks. We urge you to give every consideration of our request.

EXHIBIT 14
DATE 3/8/01
SB259

Chairman Hedges Members of the committee, for the record I'm Hill County Commissioner Doug Kaercher here representing Hill County and Hill County Park Board.

Hill County has achieved a balance among the variety of park users in the operation of Beaver Creek Park. In so doing, the Hill County Park Board as well as the Commissioners have always strived for fiscal responsibility with the ultimate goal being a self sufficient operation. In fiscal year 2000/01 Hill County levied ¼ of a mill or $7230.^{00} for park activities, with the remaining funding coming from a variety of users with cattle grazing comprising over 50% of the revenues.

Within the 10,000 acre park, which is the largest county owned park in the U.S., are 124 cabin sites, over 100 picnic/campsites ***(many of these were developed by service organizations such as Elks, Lions, and Rotary).*** **Beaver Creek lodge and Camp Kiwanis host several youth camps through out the summer, plus there are 2 premier prairie-fishing lakes fed by the creek. These sites are all designed and regulated by the Park Board to allow the beauty of the park to remain intact.**

Hill County has proven we have the ability to manage our own property in a prudent and fiscally responsible manner. The proposed fence would inhibit this ability. Reductions in revenue of any amount will increase the burden on the local citizen. The proposed fence could take away some of the best grazing in the park, thereby forcing ranchers to reduce the size of their herds as much as 1/3.

Improvements to our secondary Highway are necessary. That is the issue. A fence on this project would only take away our ability to have a productive recreational and grazing area in our county.

With this being said we encourage your vote for SB259. Thank you for your consideration. If you have any questions or if I can provide additional information, I will be happy to answer them for you.

EXHIBIT 15
DATE 3/8/01
SB 259

SB 259 Introduced by J Tester *Testimony of Louis Hagener*

Mr. Chairman, members of the committee,

My Name is Louis Hagener; I am a resident of Havre Montana, my profession is range management and land use planning. I participated on a committee that was formed to deal with a road and fencing project in Hill county park. Having searched the laws concerning fencing and reviewing statistic for accidents, it became clear that general application of the current law in all cases is not appropriate.

Current law requiring fencing along roads is useful means of dealing with safety issues between livestock and motorists in a vast majority of instances, but there are circumstances when construction of fences along roads may not necessarily be the best alternative. County parks are one of these instances when the criteria included in this bill are met. These criteria are

-livestock use and peak recreation periods do not overlap,
-speed limits are clearly posted and enforceable,
-warning signs are installed,
-management practices are employed to curtail livestock being on the road,
-road would not exceed 20 miles.

Accidents on roads are a function of numerous circumstances, only one of which may be livestock. By example: The accidents in Hill County Park are a concern. In reviewing these accident statistics, one can see that 44% are alcohol related, 52% involve young drivers and there is a high level of single vehicle accidents.

Twenty-six (26%) percent of the accidents have involved livestock. This amounts to 15 of 66 accidents over a 10-year period on the segment of the road that is within the Park. (On this same road outside of the park, where the road is fenced on both sides, there have been additional collisions with livestock.) In a good deal of the collisions involving livestock, alcohol and reckless driving were also factors and therefore were not the sole "fault" of livestock.

Counties are concerned about safety on the roads and is a reason it is important to correct design problems in roads and implement other measures to improve safety. There is reason to be concerned that when motorists have a false expectation that all livestock and wildlife are fenced away from the road they will not drive in as prudent a manner and will actually be at **higher risk**. Fences are not 100% effective in keeping livestock off roads. *A recent newspaper article reported that 200 livestock / vehicle collisions occur per year, and a good deal of these are along roads that are already fenced in accordance with existing law. By specific example; MDT reports that highway 93 south from Missoula to the Idaho border through the Bitterroot valley, had 17 collision with livestock accidents in a 2 year period and 292 confirmed collisions with wildlife in the same period. Highway 93 is through a populated area, is fenced along nearly its entire length, is not in a major livestock grazing area and yet livestock collisions still occur.*

Safety issues can be mitigated by implementing actions specifically directed at the causes of accidents. *These include implementing a curfew as would be allowed by HB27 introduced by Representative John Musgrove. Representative Musgrove's bill will give the counties a tool and the authority to curtail young drivers and crack down on DUI. Revised grazing practices, installing water in*

strategic locations to reduce the need for livestock to be on or crossing the road and posting of specific seasonal warnings are only a few to be implemented. This past summer, I took this problem to three drivers education classes (63 students) at Havre High School to specifically ask them what could be done to make this road safer for the young people that are involved in 52% of the accidents on the road through the park. Only 24% of these students suggested fencing as a reasonable alternative, but many of these were not traditional fences. 16% of the students specifically mentioned that fencing would not make the road safer. 56% supported more rigorous enforcement of laws designed to protect the public. 40% mentioned controlling the speed of traffic on the road.

Excessive speed or driving faster than conditions warrant *(darkness, slick roads, curves, etc)* is a factor in many accidents. Though posted speed limits do not necessarily slow traffic, having the motorist aware that there will be wildlife on the road year around, people walking, skiing, bicycling, hiking on and around roads in parks during the recreation season and livestock in a specific season will cause drivers to be more cautious. *I feel sure that most people in this room have driven enough roads in Montana to know to slow down on some segments of road because of hazards we know or suspect are there.* A fence will do **nothing** to curtail accidents during the non- grazing season and may in fact make the situation **less safe** for people and motorists. During relatively short periods when a fence would be used to control livestock, it is not going to be 100% effective even with the most conscientious care. *(In the case of Hill County Park the non-grazing season is 8-9 months and the grazing season is 3-4 months.)*

The legislation asked for does not overturn or weaken any existing laws. What it does do is allow counties and MDT to specifically implement measures to protect the public while allowing the county to continue to manage their own land and maintain the integrity of parks. It requires counties and MDT to look seriously at all **causes** of unsafe roads in county parks and not just install a fence and turn away, believing that all that needs to be done has been done because the letter of existing law has been met.

Please vote yes for Senate Bill 259 Thank you

MONTANA HOUSE OF REPRESENTATIVES
VISITORS REGISTER
HOUSE AGRICULTURE COMMITTEE

DATE 3/8/01

BILL NO. SB 259 SPONSOR(S)

TYPE
PROPONENT (P) OPPONENT (O) INFORMATIONAL (I)

PLEASE PRINT

PLEASE CIRCLE	NAME	ADDRESS	REPRESENTING
(P) O I	Dave Schwinden	Helena	MT Farmers Union
(P) O I	Louis Hagener	Hurre, MT	Self/Hill Co Park Board
(P) O I	Lin Currie	~~MDT~~ Helena	MDT
(P) O I	John Semple	Helena	MT Cattlewomen
(P) O I	John Bloomquist	Helena	Mt. Stockgrowers
(P) O I	Doug Koescher	Hill Co.	Hill Co.
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Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony

S:\HOUSE STATE ADMIN FORMS\visitor register.frm

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
57th LEGISLATURE - REGULAR SESSION
COMMITTEE ON AGRICULTURE

Call to Order: By **VICE CHAIRMAN RALPH LENHART**, on March 13, 2001 at 3:00 P.M., in Room 172 Capitol.

ROLL CALL

Members Present:

Rep. Linda Holden, Vice Chairman (R)
Rep. Ralph Lenhart, Vice Chairman (D)
Rep. Darrel Adams (R)
Rep. Norma Bixby (D)
Rep. Gilda Clancy (R)
Rep. Rick Dale (R)
Rep. Dave Gallik (D)
Rep. Kathleen Galvin-Halcro (D)
Rep. Christopher Harris (D)
Rep. Verdell Jackson (R)
Rep. Jim Keane (D)
Rep. Larry Lehman (R)
Rep. Holly Raser (D)
Rep. Clarice Schrumpf (R)
Rep. Frank Smith (D)
Rep. Butch Waddill (R)
Rep. Karl Waitschies (R)
Rep. Merlin Wolery (R)

Members Excused: Rep. Donald L. Hedges, Chairman (R)

Members Absent: None.

Staff Present: Krista Lee Evans, Legislative Branch
Robyn Lund, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 196, 3/9/2001
Executive Action: SB 81; SB 259

EXECUTIVE ACTION ON SB 81

Motion/Vote: **REP. HEDGES** moved that **SB 81 BE CONCURRED IN. Motion carried unanimously.**

EXECUTIVE ACTION ON SB 259

Motion/Vote: **REP. HEDGES** moved that **SB 259 BE CONCURRED IN. Motion carried unanimously.**

HEARING ON HB 197

Sponsor: **Senator John Tester, SD 45**

Proponents: **Kelley Flaherty-Settle, NPRC, AERO**
Art Loendorf, Montana Farmer's Union
Carol Lambert, WIFE
John Lockie, Ranchers Cattleman Action Legal Fund
Lorna Karn, Montana Farm Bureau
Sharon Hoff-Brodowy, Montana Catholic Conference
Don Taylor, Campaign to Reclaim Rural America
Dr. Scott Settle, Settle Ranch Company
Betty Whiting, Montana Association of Churches
Ed Mott, rancher
John Bloomquist, Montana Stock Growers Association, Montana Wool Growers Association
Don Judge, AFL-CIO

Opponents: **Brad Griffin, Montana Retail Association**
Charles Brookes, Montana Food Distributors
Leo Berry, Kraft Foods
Mark Taylor, Anheiser-Busch
Aidan Myhre, Montana Chamber of Commerce

Informational Witnesses: **Jack Kane, Department of Commerce, Weights and Measures**

Opening Statement by Sponsor:

Senator John Tester, SD 45, stated that this bill deals with country of origin labeling of foods. It is pretty self explanatory. It calls for retailers to place a placard stating what the food comes from. If that can't be determined the placard would real "Country of Origin Unknown." This could be a great marketing tool. He asked the committee what could be more important that knowing where your food comes from.

HOUSE STANDING COMMITTEE REPORT

March 14, 2001

Mr. Speaker:

We, your committee on **Agriculture** recommend that **Senate Bill 259** (third reading copy - blue) **be concurred in**.

Signed: Donald L. Hedges
Representative Donald L. Hedges, Chair

To be carried by Representative Merlin Wolery

- END -

Committee Vote:
Yes 18, No 0.

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